

Exhibit A

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

MATTHEW KOTILA, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

CHARTER FINANCIAL PUBLISHING
NETWORK, INC.,

Defendant.

Case No. 1:22-cv-00704

Hon. Hala Y. Jarbou

CLASS ACTION

**DECLARATION OF E. POWELL MILLER IN SUPPORT
OF PLAINTIFF’S MOTION FOR ENTRY OF DEFAULT JUDGMENT
PURSUANT TO RULES 23(b)(3) AND 55(b)(2) AND APPROVAL OF
PLAINTIFF’S PROPOSED CLASS NOTICE PLAN**

I, E. Powell Miller, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am the Founding Partner of The Miller Law Firm, P.C., located in Rochester and Detroit, Michigan, and counsel of record for Plaintiff Matthew Kotila (“Plaintiff”) in this action. I am a member in good standing of the Michigan Bar and am a member of the bar of this Court. I have personal knowledge of the facts set forth in this declaration and, if called as a witness, I could and would testify competently thereto.

2. I submit this declaration in support of Plaintiff’s Motion for Entry of Default Judgment Pursuant to Rules 23(b)(3) and 55(b)(2) and Approval of Plaintiff’s Proposed Class Notice Plan against Defendant Charter Financial

Publishing Network, Inc. (“Defendant”).

3. On August 3, 2022, Plaintiff initiated this action by filing his Class Action Complaint against Defendant. ECF No. 1. The following day, the Clerk of Court issued a Summons in a Civil Action as to Defendant. ECF No. 4.

4. On August 11, 2022, service of the Complaint and Summons was effectuated on Defendant. *See* ECF No. 5, PageID.534. Service was personally made by process server John W. Gill on Defendant’s registered agent. *Id.*

5. Defendant failed to answer or respond to the Complaint or otherwise defend the action within twenty-one days from the date of service of the Summons and Complaint, as required under Federal Rule of Civil Procedure 12(a)(1)(A)(i). Thus, on September 28, 2022, Plaintiff filed an Application for the Clerk of Court to enter a default against Defendant pursuant to Federal Rule of Civil Procedure 55(a). ECF No. 7. On October 19, 2022, the Clerk of Court issued an Entry of Default against Defendant pursuant to Rule 55(a). ECF No. 12.

6. Defendant is not currently in active military service, nor an infant or incompetent person.

7. On December 2, 2022, Plaintiff filed a Motion for Class Certification Pursuant to Rules 23(a) & 23(b)(3), and for Leave to Take Discovery Pursuant to Rule 55(b)(2). ECF No. 13. On May 12, 2023, the Court issued its Opinion and Order on Plaintiff’s Motion for Class Certification, conditionally granting the

motion to certify a class and directing plaintiff to provide a more specific proposed class definition within seven days. ECF Nos. 14, 15. On May 19, 2023, Plaintiff filed a supplemental brief, providing a more specific class definition and requesting leave to take discovery. ECF No. 16. On June 5, 2023, the Court issued an Order certifying the class, allowing plaintiff to conduct discovery, and directing plaintiff to file a motion for default judgment by August 16, 2023. ECF No. 17.

8. Counsel for Plaintiff proceeded by engaging in the discovery process, and discovery has now revealed that Defendant has indeed disclosed the subscription information of Class members. Plaintiff has determined that there are at least 3,416 members of the Class¹—Michigan subscribers to Defendant’s *Financial Advisor* magazine as of July 31, 2016, who had their name and that they subscribed to *Financial Advisor*, non-consensually disclosed to a third-party between April 25, 2016 and July 31, 2016.

9. Plaintiff has worked with a Claims Administrator (“Administrator”) to create a multi-part notice plan. First, the Administrator will perform skip traces on any returned undeliverable notices and those notices will be remailed to any new found addresses; further, the Administrator will establish a customized case website that shall contain additional comprehensive information about this class action, as

¹ At the Court’s request, Plaintiff can submit this information for in-camera review.

well as access to important Court documents, upcoming deadlines, and the ability to file claim forms online (if needed for any unidentified class members), or an updated postal address.

10. Plaintiff, on behalf of himself and the Class, seeks a Default Judgment in the amount of \$5,000.00 per Class member, the statutory penalty provided by the Preservation of Personal Privacy Act, PPPA § 5(a), multiplied by the number of Class members who do not choose to opt out of the Class—to be determined following the notice period.

I declare under penalty of perjury that the above and foregoing is true and accurate. Executed this 16th day of August, 2023 at Rochester, Michigan.

/s E. Powell Miller
E. Powell Miller